

**IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF PENNSYLVANIA**

DEB WHITEWOOD and SUSAN WHITEWOOD,
FREDIA HURDLE and LYNN HURDLE, EDWIN
HILL and DAVID PALMER, HEATHER
POEHLER and KATH POEHLER, FERNANDO
CHANG-MUY and LEN RIESER, DAWN
PLUMMER and DIANA POLSON, ANGELA
GILLEM and GAIL LLOYD, HELENA MILLER
and DARA RASPBERRY, RON
GEBHARDTSBAUER and GREG WRIGHT,
MARLA CATTERMOLLE and JULIA LOBUR,
MAUREEN HENNESSEY, and A.W. AND K.W.,
minor children, by and through their parents and
next friends, DEB WHITEWOOD and SUSAN
WHITEWOOD,

Plaintiffs,

v.

THOMAS W. CORBETT, in his official capacity
as Governor of Pennsylvania; MICHAEL WOLF,
in his official capacity as Secretary of the
Pennsylvania Department of Health; KATHLEEN
KANE, in her official capacity as Attorney General
of Pennsylvania; MARY JO POKNIS, in her
official capacity as Register of Wills of Washington
County; and DONALD PETRILLE, JR., in his
official capacity as Register of Wills and Clerk of
Orphans' Court of Bucks County,

Defendants.

Civil Action

No. 13-1861-JEJ

Honorable John E. Jones, III

Type of Pleading:

**MOTION TO DISMISS
PURSUANT TO FED. R.
CIV. P. 12(b)(1) AND (6)**

Filed on Behalf of
Defendants:

Governor Thomas Corbett
and Secretary of Health
Michael Wolf

MOTION TO DISMISS
BY GOVERNOR THOMAS W. CORBETT AND
SECRETARY MICHAEL WOLF

Defendants, Governor Thomas Corbett and Secretary of Health Michael Wolf, through their attorneys, Lamb McErlane PC, hereby move this Court to dismiss the Complaint filed against them by Plaintiffs, Deb Whitewood, Susan Whitewood, Fredia Hurdle, Lynn Hurdle, Edwin Hill, David Palmer, Heather Poehler, Kath Poehler, Fernando Chang-Muy, Len Rieser, Dawn Plummer, Diana Polson, Angela Gillem, Gail Lloyd, Helena Miller, Dara Raspberry, Ron Gebhardtsbauer, Greg Wright, Marla Cattermole, Julia Lobur, Maureen Hennessey, A.W. and K.W., Minor Children, by and through their parents and Next Friends, Deb Whitewood and Susan Whitewood, pursuant to Fed. R. Civ. P. 12(b)(1) and (6) for lack of jurisdiction and for failure to state a claim upon which relief may be granted. A Brief in Support of this Motion to Dismiss will be timely filed in accordance with this Court's Scheduling Order.

Respectfully submitted,

LAMB McERLANE PC

Dated: September 30, 2013

By: /s/William H. Lamb
William H. Lamb, Esquire
Attorney I.D. No. 04927
24 East Market Street
P.O. Box 565
West Chester, PA 19381

**IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF PENNSYLVANIA**

DEB WHITEWOOD and SUSAN WHITEWOOD,
FREDIA HURDLE and LYNN HURDLE, EDWIN
HILL and DAVID PALMER, HEATHER
POEHLER and KATH POEHLER, FERNANDO
CHANG-MUY and LEN RIESER, DAWN
PLUMMER and DIANA POLSON, ANGELA
GILLEM and GAIL LLOYD, HELENA MILLER
and DARA RASPBERRY, RON
GEBHARDTSBAUER and GREG WRIGHT,
MARLA CATTERMOLLE and JULIA LOBUR,
MAUREEN HENNESSEY, and A.W. AND K.W.,
minor children, by and through their parents and
next friends, DEB WHITEWOOD and SUSAN
WHITEWOOD,

Plaintiffs,

v.

THOMAS W. CORBETT, in his official capacity
as Governor of Pennsylvania; MICHAEL WOLF,
in his official capacity as Secretary of the
Pennsylvania Department of Health; KATHLEEN
KANE, in her official capacity as Attorney General
of Pennsylvania; MARY JO POKNIS, in her
official capacity as Register of Wills of Washington
County; and DONALD PETRILLE, JR., in his
official capacity as Register of Wills and Clerk of
Orphans' Court of Bucks County,

Defendants.

Civil Action

No. 13-1861-JEJ

ORDER

AND NOW, this _____ day of _____, 2013, upon consideration of the Motion to Dismiss filed by Defendants, Governor Thomas Corbett and Secretary of Health Michael Wolf, Plaintiffs' response to that Motion, and the briefs filed by all parties, it is hereby ORDERED that the Motion is GRANTED. The Complaint is dismissed with prejudice.

BY THE COURT:

John E. Jones, III
U.S. District Judge

**IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF PENNSYLVANIA**

DEB WHITEWOOD and SUSAN WHITEWOOD,
FREDIA HURDLE and LYNN HURDLE, EDWIN
HILL and DAVID PALMER, HEATHER
POEHLER and KATH POEHLER, FERNANDO
CHANG-MUY and LEN RIESER, DAWN
PLUMMER and DIANA POLSON, ANGELA
GILLEM and GAIL LLOYD, HELENA MILLER
and DARA RASPBERRY, RON
GEBHARDTSBAUER and GREG WRIGHT,
MARLA CATTERMOLLE and JULIA LOBUR,
MAUREEN HENNESSEY, and A.W. AND K.W.,
minor children, by and through their parents and
next friends, DEB WHITEWOOD and SUSAN
WHITEWOOD,

Plaintiffs,

v.

THOMAS W. CORBETT, in his official capacity
as Governor of Pennsylvania; MICHAEL WOLF,
in his official capacity as Secretary of the
Pennsylvania Department of Health; KATHLEEN
KANE, in her official capacity as Attorney General
of Pennsylvania; MARY JO POKNIS, in her
official capacity as Register of Wills of Washington
County; and DONALD PETRILLE, JR., in his
official capacity as Register of Wills and Clerk of
Orphans' Court of Bucks County,

Defendants.

Civil Action

No. 13-1861-JEJ

CERTIFICATE OF CONCURRENCE/NON-CONCURRENCE

I, William H. Lamb, hereby certify that counsel for all parties were contacted regarding possible concurrence with Defendants Governor Thomas Corbett and Secretary of Health Michael Wolf's Motion to Dismiss. Counsel for co-Defendants Mary Jo Poknis and Donald Petrille, Jr., indicated concurrence with this Motion. Counsel for Plaintiffs indicated non-concurrence with this motion. Counsel for Attorney General Kathleen Kane has indicated that the Attorney General takes no position with regard to this Motion.

Respectfully submitted,

LAMB McERLANE PC

Dated: September 30, 2013

By: /s/William H. Lamb
William H. Lamb, Esquire
Attorney I.D. No. 04927
24 East Market Street
P.O. Box 565
West Chester, PA 19381

**IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF PENNSYLVANIA**

DEB WHITEWOOD and SUSAN WHITEWOOD,
FREDIA HURDLE and LYNN HURDLE, EDWIN
HILL and DAVID PALMER, HEATHER
POEHLER and KATH POEHLER, FERNANDO
CHANG-MUY and LEN RIESER, DAWN
PLUMMER and DIANA POLSON, ANGELA
GILLEM and GAIL LLOYD, HELENA MILLER
and DARA RASPBERRY, RON
GEBHARDTSBAUER and GREG WRIGHT,
MARLA CATTERMOLLE and JULIA LOBUR,
MAUREEN HENNESSEY, and A.W. AND K.W.,
minor children, by and through their parents and
next friends, DEB WHITEWOOD and SUSAN
WHITEWOOD,

Plaintiffs,

v.

THOMAS W. CORBETT, in his official capacity
as Governor of Pennsylvania; MICHAEL WOLF,
in his official capacity as Secretary of the
Pennsylvania Department of Health; KATHLEEN
KANE, in her official capacity as Attorney General
of Pennsylvania; MARY JO POKNIS, in her
official capacity as Register of Wills of Washington
County; and DONALD PETRILLE, JR., in his
official capacity as Register of Wills and Clerk of
Orphans' Court of Bucks County,

Defendants.

Civil Action

No. 13-1861-JEJ

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendants' Governor Thomas W. Corbett and Secretary of Health Michael Wolf's Motion to Dismiss in the above captioned matter was served on this, the 30th day of September, 2013, to the attorneys/parties of record as follows:

Mark A. Aronchick, Esquire
John S. Stapleton, Esquire
Dylan. Steinberg, Esquire
Rebecca S. Melley, Esquire
Hangley Aronchick, Segal, Pudlin & Schiller
One Logan Square, 27th Floor
Philadelphia, PA 19103
Counsel for Plaintiffs

Robert Grimm, Esquire
Thomas J. Jezewski, Esquire
Swartz Campbell LLC
4750 US Steel Tower
600 Grant Street
Pittsburgh, PA 15219
Counsel for Defendant Poknis

James D. Esseks, Esquire
Leslie Cooper, Esquire
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, NY 10004
Counsel for Plaintiffs

Seth F. Kreimer, Esquire
3400 Chestnut Street
Philadelphia, PA 19144
Counsel for Plaintiffs

M. Abbegaël Giunta, Deputy Attorney General
Gregory R. Neuhauser, Chief Deputy Attorney General
Office of Attorney General
Strawberry Square, 15th Floor
Harrisburg, PA 17120
Counsel for Defendant Kane

Mary Catherine Roper, Esquire
Molly M. Tack-Hooper, Esquire
American Civil Liberties Union of Pennsylvania
P.O. Box 40008
Philadelphia, PA 19106
Counsel for Plaintiffs

Witold J. Walczak, Esquire
American Civil Liberties Union of Pennsylvania
313 Atwood Street
Pittsburgh, PA 15213
Counsel for Plaintiffs

Nathan D. Fox, Esquire
Begley Carlin & Mandio LLP
680 Middletown Blvd.
Langhorne, PA 19047
Counsel for Defendant Petrille

LAMB McERLANE PC

By: /s/William H. Lamb
William H. Lamb, Esquire
Attorney I.D. No. 04927
24 East Market Street
P.O. Box 565
West Chester, PA 19381